



October 16, 2008

**AP 121**

**To:** Audit Staff

**From:** David Rock

**Subject:** **Assignment's Liability Increased While in Hearings**

Periodically, it may be appropriate to amend an assignment's liability upward while it is still in the hearings process. When increasing an assignment's liability, the taxpayer must receive due notice of this increase to allow them the opportunity to address any disagreements during their existing hearing. Procedures have been put in place for the hearings attorneys and field auditors to ensure the amendment is properly assigned, processed and billed/mailed to the taxpayer.

Administrative Hearings Section –

- Hearings attorney will generate a special Audit Amendment Request form that includes the wording "*RPC to prepare bill using Special Billing*" at the top of the form. (Attachment A)
- Hearings attorney will obtain approval from Administrative Hearings management.
- Hearings attorney will e-mail the Euless Review Processing Center (RPC) manager with a cc: to the RPC supervisor alerting them that a liability increase requiring a Special Hearings Bill will be forthcoming. If the request involves a BART assignment then the Hearings attorney will send the e-mail to the BART manager instead of the RPC manager.
- Send the Audit Amendment Request form to Audit HQ.

Audit Division –

- Audit HQ personnel will generate the amended assignment on AWM, route it to the auditor and image the Audit Amendment Request form.
- Generate an Amended Audit, if the liability increase involves an audit.
- Generate an Amended FVAR, if the liability increase involves an FVAR.
- Generate an Original FVAR, if the liability increase is part of a refund verification.
- Generate an Amended BART assignment with the Reason "Returns Received" if the liability increase involves a BART assessment.
- Audit HQ personnel will add a Notes To Reviewer comment to AWM stating that the amendment is for a Hearings Increase and should have a manual Special Hearings amended billing prepared.
- The Audit Amendment Request form will not be mailed to the office. The auditor will print the Audit Amendment Request form from Imaging.

## Auditor or BART –

- Write up the amended assignment to incorporate the tax increase into the existing assignment.
- Turnaround time is 60 days, or if an expedite is requested, 2 weeks. The auditor's supervisor has the authority to extend these deadlines based upon workload. If deadline is to be extended, supervisor must notify the hearings attorney.
- Place the Audit Amendment Request form on top of the amended assignment package.
- Field Auditors: The "To:" address on the Amended Audit/Exam Report should match the person and address of record for the hearing. For an Original FVAR, use the same report and delete the word "Amended". (Attachment B)
- Assignments completed by the field auditors are sent to the RPC for processing using normal amended assignment routing procedures.
- BART assignments are not sent to the RPC; instead they will be processed in the BART section. BART will enter and release the amended audit results onto the tax system. BART will send the Texas Notification of Amended Exam Results along with supporting documentation directly to the hearings attorney via e-mail.

## Review Processing Center (RPC) –

- Stamp the Transmittal Form as "Hearings".
- Process the amendment as a Hearings Amendment.
- When received at the RPC, give the special amendment to the manager or supervisor for rush/expedited processing.
- Review amendment ensuring the Audit Amendment Request form is on the top of the assignment package behind the Transmittal Form.
- Order a current P&I with no bill.
- Prepare a Special Hearings Bill (Attachment C) using a bill date that is 30 days after the P&I order date.
- Do not include the taxpayer's rights on the bill or in the Amended Audit/Exam Report. The audit increase is incorporated into an audit that is already in the hearings process; therefore, the amendment will be governed by the original taxpayer rights which were issued with the original audit or last amended audit.
- Do not date the Amended Audit/Exam Report or the Original FVAR Exam Report.
- Do not make a taxpayer copy and do not prepare an envelope. The bill will be mailed to the taxpayer by the hearings attorney.
- Audit Control will release the amended audit with a "W" and an "E" to complete AWM and to route the amended assignment to Audit Processing.
- Image the amended assignment package.
- The RPC manager and/or supervisor will e-mail a copy of the bill to the hearings attorney alerting them that the bill and supporting exams are available in imaging.

## Audit Processing –

- Update XAAUDS/XADETM/XAWAVR, as appropriate, with the new figures.
- Record will remain in hearings status.
- Close AP task. Do not route.

Hearings Attorney –

- Print the Special Hearings Bill from the RPC manager's e-mail.
- Print the supporting exams from imaging.
- Attach bill and supporting exams to the position letter, response, motion, etc. and mail to the taxpayer or taxpayer's representative at the address of record for the hearing.

If you have any questions about this policy, please contact me at the Area Manager of Technical Support in Audit Headquarters, the Supervisor of the Technical Support Section, the manager of the Eulless Review Processing Center, or the manager of BART for BART issues.

# AUDIT AMENDMENT REQUEST

*(RPC to prepare bill using Special Billing)*

1. Division requesting amendment <b>ADMINISTRATIVE HEARINGS</b>		2. Person requesting amendment	
3. Audit office/ division (Name and number)  «audit_office_ao_code»	4. Taxpayer's Representative	5. Date audit returned for amendment	6. Due Date to RPC:
	«tp_rep» «title» «tp_rep_firm» «tp_rep_address» «tp_rep_city_state_zip»		
7. Taxpayer name (as shown in audit)  «case»	8. HEARING NO:  «hearing_no»	9. Taxpayer number (as shown on audit)  «tp_no»	
10. Taxpayer mailing address (street and number or P. O. Box)  «tp_address»			

11. Audit period «audit_period_1» - «audit_period_2»
12. Tax code to be amended <b>«type of tax» / «type of hrg»</b>

13. <u>Attorney's requested amendment and reasons therefore. (Attach additional sheets if necessary)</u>	
AHS Attorney  <b>sign here</b>	Date

AHS Supervisor approval  <b>sign here</b>	Date
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AHS Deputy General Counsel Approval  <b>sign here</b>	Date
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## AP 121 (Attachment B)

Any Entity, Inc.  
Anycity, Texas  
TP #: 11234567890

# EXAMPLE

### EXAM REPORT

This report summarizes the adjustments made in accordance with Hearing #105,555.

1. A detailed examination was completed for Exam 500. Adjustments were made for additional capital assets on which no tax was paid.

#### **EXAM REPORT –**

If the Original FVAR is the result of a Hearings Increase found during a refund verification, use the normal Exam Report that is a part of the FVAR Cover Letter. Adjustments listed should match the items listed on the Audit Amendment Request form. Do not include the FVAR Cover Letter in the Special Hearings Increase package. Include only the Exam Report.

**To: Should match the person and address of record for the hearing.  
Do not include any cc: info.**

For a Special Hearings Increase, the Exam Report and Special Hearings Bill will be mailed by the hearings attorney to the address of record for the hearing.

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**AP 121 (Attachment C)**

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**TEXAS NOTIFICATION OF AMENDED AUDIT RESULTS**  
(TEX.TAX CODE ANN.SEC.111.008)STATEMENT DATE  
**May 05, 2008**Taxpayer Name  
**ANY ENTITY, INC.**Taxpayer Number  
**1-12-3456789-0**Audit Period  
**2004 THRU 2007**Type of Tax  
**LIMITED SALES, EXCISE AND USE TAX****Hearings Increase - Example**

	STATE	LOCAL	TOTAL
TAX	\$ 26,412.23	\$ 1,056.49	\$ 27,468.72
PENALTY	905.04	36.20	941.24
INTEREST THRU PAYMENT DATE	2,517.65	100.71	2,618.36
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AMOUNT DUE PRIOR TO PAYMENTS	\$ 29,834.92	\$ 1,193.40	\$ 31,028.32
LESS PAYMENTS			26,082.74
INTEREST THRU STATEMENT DATE			5.94
			-----
<b>AMOUNT DUE AS OF STATEMENT DATE</b>			<b>\$ 4,951.52</b>
			=====

IF PAID AFTER 06-30-2008, ADD INTEREST OF \$ 0.31 PER DAY THROUGH THE DATE OF PAYMENT. \*

(See interest rate note below.)\*

**The results of this amended audit set forth the now existing outstanding balance due for limited sales, excise and use tax for the audit period listed above. It is not necessary that you file a Request for Redetermination or a Statement of Grounds regarding this amended audit. The results of this amended audit are the subject of the currently pending redetermination Hearing Number 105,555. If you disagree with the results of this amended audit, you will have an opportunity during the redetermination hearing to challenge the results.**

The results of this audit should not be taken as approval of your tax reporting system. Law changes and new rulings might result in different findings in future audits and you will be responsible for any taxes found owing and due.

For payment information call 1-800-531-5441, ext. 3-3900 toll free nationwide, or call 512/463-3900.

Make your check payable to STATE COMPTROLLER and mail to Comptroller of Public Accounts  
111 E. 17<sup>th</sup> Street, Austin, Texas 78774-0100.

\*Per annum interest rates are subject to change on January 1st of each year. For more interest rate information, refer to publication 98-304, call 1-877-447-2834, or refer to [http://www.window.state.tx.us/taxinfo/int\\_rate.html](http://www.window.state.tx.us/taxinfo/int_rate.html)

(Cut And Return Bottom Portion With Payment)

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VVVV

**TEXAS NOTIFICATION OF AMENDED AUDIT RESULTS**  
(TEX.TAX CODE ANN.SEC.111.008)STATEMENT DATE  
**May 05, 2008**

\*PMD \_\_\_\_\_

Taxpayer Name &amp; Mailing Address

**ANY ENTITY, INC.**  
123 ANYSTREET AVE.  
ANYCITY, TX 77000-0001

Amount Of Your Payment

*Tcode	*Taxpayer Number	*Period	*Audit	*State Amount
13040	11234567890	06	001	4951.52